



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Order 96-6-43

Issued by the Department of Transportation  
on the 21st day of June, 1996

SERVED: June 21, 1996

1996/1997 U.S.-BRAZIL ALL-CARGO CHARTER PROCEEDING

Docket OST 96-1242

ORDER TENTATIVELY ALLOCATING CHARTERS AND GRANTING INTERIM ALLOCATION

**SUMMARY**

By this order we tentatively find that the 450 U.S.-Brazil all-cargo charters currently available for allocation for the 1996-97 charter year should be allocated as follows: Millon Air, Inc., 99; Southern Air Transport, Inc., 76; Tower Air, Inc., 60; Arrow Air, Inc., 55; Florida West Airlines, Inc., 53; and Fine Airlines, Inc., 23. In addition, 84 charters would be allocated to a pool for *ad hoc* distribution and use under conditions discussed below. Because we will not complete this proceeding before the beginning of the charter year on July 1, based on the proposed allocations, we will permit each of the carriers to use a pro rata share of its proposed allocation for the month of July to ensure that charter services in the U.S.-Brazil market continue pending a final decision in this proceeding. We will also reserve a pro rata portion of the proposed charter pool for distribution to eligible carriers.

**BACKGROUND**

Under the U.S.-Brazil Air Transport Agreement, as amended, U.S. carriers are entitled to operate 450 round-trip all-cargo charter flights per charter year (July through June). The Agreement also provides that requests for charters beyond that number by designated airlines will be treated sympathetically by the other party. For the 1995/96 charter year the Government of Brazil permitted U.S. carriers to operate 350 additional charters beginning in September 1995, subject to the condition that no more than 50 charters be operated in any one calendar month.

By Notice served April 5, 1996, we instituted this proceeding to determine which U.S. carriers should be allocated the 450 all-cargo charters available for the 1996/97 charter year.

We invited interested carriers to apply for specific advance allocations by April 12, 1996, supported by contracts and other information.<sup>1</sup> Answers to those applications were due April 18, 1996.<sup>2</sup>

Our notice indicated that should the number of charters requested exceed the number available, the Department would proceed to allocate the flights using show-cause procedures based on the applications received. We specifically noted that the U.S.-Brazil charters are very valuable and that we do not intend that they be wasted. In this regard, we stated that it was our intent to review carefully our records as to whether allocations were used in the numbers awarded. To this end, we stated that should carriers that were allocated flights for the 1995/96 charter year fail to use their allotments or fail to return flights in a timely manner, the presumption would be that their awards for the 1996/97 charter year, if any, might be reduced by the same number of charters they failed to use or return in the 1995/96 charter year.

### **Applications**

Eleven carriers filed applications for allocation of 1,203 charters. The number of charters requested by each carrier for the 1996/97 charter year, the number of allocated frequencies for the current charter year (1995/96), and the number of 95/96 charters actually operated through May 1996, are as follows:

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<sup>1</sup> We indicated that applications should include (1) the number of flights requested; (2) the aircraft to be used, the payload capacity of those aircraft, and the availability of those aircraft for the proposed services; (3) the markets to be served; (4) the cargo to be carried; (5) whether the flights will be *ad hoc* or under contract for a series of flights with one or more charterers; (6) evidence showing the likelihood that the flights will be operated, including the charter contract where applicable, noting that carriers may seek confidential treatment under our regulations (14 CFR 302.39) for any charter contracts filed; (7) whether a partial grant of the requested number of charters would affect the likelihood that such charters will be operated, and, if so, the minimum number of flights the applicants would accept; and (8) any other information useful to our determination.

<sup>2</sup> Five of the eleven applicants submitted answers: ABX, Arrow, Emery, Polar and, Southern. Florida West (FWIA) submitted a reply and a motion to file an otherwise unauthorized document. In the interest of having a complete record, we will grant the motion.

Carrier	Request for <u>1996/1997</u>	Advance Allocation <u>1995/1996</u>	Total Used <sup>3</sup> <u>1995/96</u>
Millon	209	52	134
Fine	208	52	21
Polar	156	52	96
Arrow	150	n/a	50
Tower	104	52	62
AIA	102	n/a	43
Southern	100	52	91
Florida West	64	52	49
Buffalo	52	n/a	2
ABX	40	52	16
Emery	18	52	9
Totals	1203	430 <sup>4</sup>	573 <sup>5</sup>

All but four applicants submitted contracts in support of these requests, which would be operated as “programs,” or a series of regular charter flights, for one or more air freight forwarders, who would consolidate general freight from their individual customers.<sup>6</sup> The proposals indicate that the applicants would use a variety of aircraft: three plan to use the DC8 freighter; three, B747s; and five, various aircraft including B707, DC8, DC10, B747. All carriers, except Tower, propose service from Miami to Manaus and Sao Paulo, with some carriers proposing service also to additional Brazilian points.<sup>7</sup> Several carriers would serve other U.S. cities behind Miami.<sup>8</sup>

All of the applicants have participated in the U.S.-Brazil charter market. Eight of the carriers operated charters from program allocations last year.<sup>9</sup> Four carriers operated charters from the *ad hoc* pool and from the special allocations granted by the Government of Brazil.<sup>10</sup> Southern and Tower also operated charters from the special allocations granted by the Government of Brazil, and Buffalo operated only from the *ad hoc* pool this past year. Three carriers indicated that grant of fewer frequencies than requested would damage or impair their operations.<sup>11</sup>

<sup>3</sup>In addition to those used for programs, the total also includes additional charters from the charter pool and special allocations permitted by the Government of Brazil.

<sup>4</sup> Includes 14 allocated to Transcontinental for the 1995/96 charter year. Transcontinental is not an applicant for the coming charter year.

<sup>5</sup> Includes 4 used by Federal Express, an incumbent scheduled carrier.

<sup>6</sup> ABX and Buffalo stated they were in the process of negotiating contracts; Fine stated it would operate both *ad hoc* and contract charters but provided no contract as evidence; and Emery stated its operations would be on an *ad hoc* basis.

<sup>7</sup> Tower only proposes to serve Sao Paulo (Viracopas). AIA would also serve Recife and Belo Horizonte; Fine, Belem and Rio de Janeiro; Florida West, Rio de Janeiro. Buffalo Airways did not specify which U.S. cities it would serve.

<sup>8</sup> AIA and Emery would serve Los Angeles; Polar and FWIA would serve New York; and FWIA would also serve Houston.

<sup>9</sup> ABX, Emery, Fine, FWIA, Millon, Polar, Southern, and Tower.

<sup>10</sup> AIA, Arrow, Millon, and Polar.

<sup>11</sup> Buffalo, FWIA, and Tower.

Only ABX, Emery, and Southern commented on the size of the charter pool, with ABX and Southern recommending 20 and Emery recommending 75. Most applicants support an equal distribution of charters among the applicants. ABX, Emery and Southern each proposes an allocation formula.<sup>12</sup>

Arrow maintains that the track records of carriers in providing all-cargo charter service to Brazil should be given major consideration. Emery argues that FWIA should receive no allocation until it acquires its own aircraft and the Department completes its fitness proceeding. Southern proposes that allocations should go to the wide-body applicants in order to maximize the available charters and suggests that allocations should only be made to carriers with firm and current aircraft available; thus it questions whether allocations should be made to Fine, Millon and FWIA.

In response to Emery, FWIA urges the Department to make a pro rata allocation to each of the applicants; states that the suggestions of Emery and Southern that FWIA be penalized are unwarranted and should be summarily rejected; and maintains that it and its corporate predecessor have operated more Brazil charters than either Emery or Southern over the past five years. Finally, FWIA states that it should receive no less favorable treatment than the 52 U.S.-Brazil charters granted during the 1995-96 charter year.

### **Tentative Allocation**

After carefully reviewing the applications before us, we have tentatively decided to allocate a majority of the available charters (366) to program operators and to maintain the balance (84) in a charter pool for distribution on a first-come, first-served basis. It is clear from the record in this proceeding that the demand for service in the U.S.-Brazil all-cargo market is for regular patterns of continuous service. However, it is also clear from this past year's carrier experience in providing U.S.-Brazil charters that there is a need as well to increase the size of the pool over last year's allocation of 20 flights.

Where we have had to allocate Brazil all-cargo charters in the past we have had three major objectives--to ensure that the flights are fully used, to satisfy to the extent possible the

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<sup>12</sup> ABX would place 20 flights into an *ad hoc* pool to be dispersed on a first-come, first serve basis and would make a *pro rata* distribution of the remaining 430 flights among the applicants so that ten carriers would each receive 39 flights, except Emery, which requested only 18. The remaining 22 would be allocated to applicants demonstrating the greatest need. Under Emery's suggested formula, no carrier should receive an allocation over 52, and FWIA would receive no charters (see below); carriers receiving scheduled authority should receive no charters; the five remaining carriers requesting 100 or more charters (Arrow, Fine, Millon, Southern and Tower) would each receive an award of 52 charters; and Emery, ABX and Buffalo would receive allocations consistent with the average number they have each operated over the past two years. The remaining charters would be allocated to the charter pool. Southern proposes that 208 of the frequencies be allocated to carriers using B747 aircraft; that 20 frequencies go into a charter pool; and that 222 frequencies be distributed among seven remaining narrow-body applicants. Southern would not allocate any charters to the two B747 carriers that will get a final award in the *U.S.-Brazil All-Cargo Proceeding* for scheduled authority in the U.S.-Brazil market.

competing interests of shippers and carriers serving the market, and to ensure that all carriers, incumbents and new entrants, have access to the market. Thus, in all of our decisions we have allocated flights to accommodate the demonstrated need for regular patterns of service and reserved some charters to satisfy any demand for *ad hoc* flights in the market. We have also ensured that carriers with a history of successful operations in the market can continue to provide their programs and that new entrants are given an opportunity to serve and to develop programs of their own. Last year, given the unprecedented demand for flights (1,256 flights requested versus 450 charters available), and the fact that all of the applicants appeared to have firm contracts to support their proposals, we allocated the flights on a pro rata basis to all applicants and reserved only a very small number of flights in the charter pool for *ad hoc* services.<sup>13</sup> That allocation proved less than fully successful in meeting our objectives. While incumbent carriers in the market served very well, few of the new entrant carriers that had been allocated flights operated even one-half the 52 flights allocated. Had it not been for the additional charters permitted by the Brazilian Government, the programs of incumbent carriers would have been impaired significantly. Against this background, to strengthen the likelihood that our critical objectives will be satisfied, we tentatively believe that our allocations for the 1996/97 charter year must give greater decisional weight to historic operations in the market.

Specifically, where applicant carriers have operated at least the number of flights allocated for the last charter year, we propose that they be allocated at least that number this charter year. Those carriers have demonstrated that there is a demand for their services and that they will make full use of the flights. We believe that those carriers should be able to continue their services in the market to the extent possible given the limited number of flights available. In addition, to the extent that those carriers have operated more flights than they were granted in their advance allocation, we believe that they should be granted an increase in the number of flights allocated. While it is not possible for us to grant incumbent carriers the same number of flights that they operated last year and still provide an adequate opportunity for other carriers to serve, we can increase their allocations without compromising our other objectives in this proceeding. Therefore, we propose to increase allocations to these carriers by a number of flights equal to one-half the number of flights that they operated in excess of their 52-flight allocation for the 1995/96 charter year. For example, a carrier receiving an advance allocation of 52 flights last charter year that operated a total of 125 flights during the year (having received additional charters from reallocations and flights distributed as a result of additional charters permitted on an extrabilateral basis) would receive an allocation of 89 flights for the 1996/97 charter year ( $52 + \frac{1}{2}(125-52)$ ). Under this proposal, based on last year's experience, Millon, Southern Air Transport, Tower, and Florida West would be allocated 99, 76, 60 and 53 charters, respectively.<sup>14</sup>

<sup>13</sup> Eight carriers were allocated 52 flights each and one carrier was allocated 14 flights. Twenty flights were retained in the charter pool.

<sup>14</sup> We have post-flight charter reports from carriers through May 1996 (*i.e.*, for eleven months of the charter year). To make our allocations we are projecting year end total flights operated based on the average number of flights carriers operated during the eleven month period. For example, Millon Air operated 134 flights for the eleven month period for an average of 12 flights per month. We, therefore, project a year-end total for Millon of 146 operated flights. The projected allocations are calculated as follows:

<u>Carrier</u>	<u>Projected Yr End Flights</u>	<u>Advance Allocation</u>
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For applicant carriers that operated fewer than their advance allocation of 52 flights and for carriers not receiving an advance allocation, but that have operated at least 20 flights during the last charter year, we propose to allocate to them the same number of flights in the 1996/97 charter year that they operated last charter year.<sup>15</sup> Under this proposal, Fine would receive an allocation of 23 flights and Arrow an allocation of 55 flights. The combined allocations to these six carriers would use 366 of the 450 available flights.

For carriers that operated fewer than 20 flights and new entrants, their operations would be accommodated by flights from the charter pool. Given that 366 of the available flights would be allocated, 84 flights will be available in the charter pool. We believe that a pool this size, over four times the number of flights in last years' charter pool, is sufficient to accommodate the operations of the remaining applicants in this proceeding as well as any other new entrants that may seek to serve the market.<sup>16</sup>

In our notice instituting this proceeding we stated that the U.S.-Brazil charters are very valuable and that we do not intend that they be wasted. To this end, we stated that we would review our records and should carriers that were allocated flights for the 1995/96 charter year fail to use their allotments and fail to return flights in a timely manner, their awards for this charter year might be reduced by the same number they failed to use in the 1995/96 charter year. Consistent with this proposal, upon conclusion of the 1995/96 charter year we propose to review our records and plan to reduce any allocation made here by the number of frequencies wasted by carriers having allotments and either not using them or not returning them for subsequent reallocation to other carriers.<sup>17</sup>

We have excluded from consideration here any allocations to Polar Air Cargo and American International Airways. Those carriers were recently selected in the *U.S.-Brazil All-Cargo Service Proceeding*, to provide new U.S.-Brazil scheduled all-cargo services. As a result of that decision

there are now four U.S. carriers authorized to perform scheduled all-cargo services.<sup>18</sup> It has been our policy not to allocate charter flights to carriers that have access to the market under their scheduled service authority. Given the limitations on service in the U.S.-Brazil market, we believe that it is important that the allocation of charter rights be reserved for carriers that

Millon	146	$99: 52 + \frac{1}{2}(146-52)$
SAT	99	$76: 52 + \frac{1}{2}(99-52)$
Tower	68	$60: 52 + \frac{1}{2}(68-52)$
Florida West	53	$53: 52 + \frac{1}{2}(53-52)$

<sup>15</sup> We are using the same formula for calculating year-end totals as described above. The 20-flight standard is consistent with the standard used in our streamlined procedures to determine which carriers qualified for receipt of an allocation as opposed to obtaining flights from the charter pool. *See*, Orders 92-6-46 and 92-9-22.

<sup>16</sup> Through May 1996, these carriers operated 27 flights between the United States and Brazil.

<sup>17</sup> Hence, after review of the 1995/96 charter year, the allocations of Fine, Florida West and/or Tower might be decreased from allocations proposed here; should such circumstance occur, the number of charters subtracted from any allocation would be placed in the charter pool for allocation.

<sup>18</sup> Order 96-6-12 issued all-cargo certificates to American International Airways, Inc., and Polar Air Cargo, Inc. for U.S.-Brazil services. Federal Express Corporation and Challenge Air Cargo are the other two carriers authorized to provide scheduled all-cargo services in the U.S.-Brazil market.

do not otherwise have access to the U.S.-Brazil market. Under our rules, scheduled carriers have been permitted access to the charter pool later in the charter year. As discussed below, we intend to apply those rules to the charter pool we propose to establish in this order.

Buffalo, FWIA, and Tower stated that allocations of fewer flights than requested would impair their proposed programs. We will direct FWIA and Tower to notify the Department as to whether each will accept an allocation of fewer flights. While we appreciate that Buffalo seeks to serve the Brazil market, it has demonstrated no firm commitment for the large number of flights that it requested and its participation in the market in the past has been minimal. In these circumstances, we believe that access to the charter pool, which is considerably larger than last year, should accommodate Buffalo's needs.

We are unpersuaded by Southern's arguments that all of the charters be awarded to wide-body carriers. As in previous years, we believe that the U.S.-Brazil market will best be served by a mix of carriers, aircraft, routings, and services as proposed by the aggregate carriers, and we believe that the mix we propose here through our tentative allocations will best serve the spectrum of market needs. We believe this is particularly true since we recently authorized two additional carriers to provide scheduled all-cargo services in the market with wide-body aircraft. The inclusion of narrow-body aircraft operators here ensures that the market will receive the widest array of service and price options.

Finally, we are not persuaded to exclude Florida West International Airways (FWIA) from an allocation in this proceeding. Florida West Airlines, FWIA's predecessor company, has been an active participant in operating U.S.-Brazil charters and has demonstrated its ability to perform such flights. FWIA has requested that the Department transfer the authority held by Florida West Airlines to FWIA (Docket OST-95-418). The Department has tentatively approved that transfer (Order 96-6-19). We do not believe that the pendency of that proceeding should exclude FWIA from an award here. However, we will make any award ultimately granted in this proceeding to FWIA contingent upon the Department granting final approval to the route transfer.

Based on the above, we propose allocations to the following carriers: Millon, 99; Southern, 76; Tower, 60; Florida West, 53; Arrow, 55; and Fine, 23, and a charter pool of 84 flights.

### **Forfeiture and Reallocation Procedures/Reporting Requirements**

We remain of the view that banking should be discouraged, particularly where, as here, there are clearly inadequate numbers of flights for allotment requests and for an *ad hoc* pool. While some of the applicants already have signed contracts for all of the flights requested, some contractual changes will be inevitable given the limited number of flights available to each applicant and the introduction of two new scheduled carriers, adding capacity in the market. Therefore, we have tentatively decided to continue the conditions imposed on allocations since 1992: carriers must operate at least 40 percent of their allocation within the first six months of the charter year or forfeit a portion of their remaining balance for reallocation through the charter pool. Moreover, we emphasize that each carrier is under a

general obligation to return charters promptly any time program or *ad hoc* allotment plans change appreciably. We remind carriers that once they have applied to the Brazilian Government for the operation of a charter and plans for the operation of the charter change, it is the carrier's responsibility to notify both the U.S. and the Brazilian governments of any changes to original plans. Failure to do so could result in waste of the charters and the carrier's ability to continue serving the market. This past year some U.S. carriers notified the U.S. government that a flight had been canceled or rescheduled but failed to notify the Brazilian Government in writing. In one instance, the Brazilian Government was not prepared to permit the U.S. carrier into the market at the end of the charter year because its records did not coincide with either the carrier's or the U.S. Government's. In order to prevent such problems in the future, both governments must be notified in writing as soon as it is known that a flight will be changed and/or canceled.

As we have in the past, we propose to require all carriers allocated flights or receiving flights from the pool to report on their operations for the preceding month by the tenth day of each month.

### **Charter Pool**

As noted above, few carriers commented in their pleadings about the size of the pool. Last year, we had a very small pool (only 20) and that pool was used by the first week of August. Many new entrants were restricted in their ability to serve the market. It was only through subsequent increases in the charter pool from carrier forfeitures and separate allocations as a result of additional charters permitted by the Government of Brazil, that we were able to satisfy the demand for the charters that continued throughout the year. Therefore, we see a need this year to increase the size of the pool so that we may satisfy additional *ad hoc* needs of the market.

We are tentatively of the opinion that the pool procedures established in Order 95-6-18 should govern the 1996-1997 charter year. While described more fully below, the procedures generally permit eligible applicants to apply for up to four charters each calendar month and, consistent with past practice, pool use will be restricted to carriers without combination or all-cargo scheduled service authority through April 30, 1997. The two carriers in this proceeding which have subsequently received scheduled authority since submitting their applications are ineligible to receive allocations from the pool until after April 30, 1997.<sup>19</sup>

### **Motions for Confidential Treatment**

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<sup>19</sup> In Order 92-9-22, we denied Challenge's request for an advance allocation to cover its transition from charter-only to scheduled service, finding no basis for such allocations to carriers holding scheduled authority in the U.S.-Brazil market. Since the two carriers, AIA and Polar, now hold scheduled service authority, we do not find it necessary to permit them early access to the pool. We recognize, however, that these carriers might not yet have received their licenses from the Brazilian Government when the charter year begins on July 1. We are working with the Brazilian Government to facilitate transition of the carriers' operations from charter to scheduled services on an extrabilateral basis.



AIA, Polar and Southern have filed Rule 39 motions for confidential treatment of their contracts and other specific charter documents submitted in this docket. We have reviewed the documents under the disclosure guidelines of Rule 39 and have determined that they warrant confidential treatment. Because of the commercially sensitive nature of the information in these documents, including the names of charterers and various contractual details, we have determined that the documents fall within the Freedom of Information Act exemption for proprietary information and would adversely affect the competitive position of an air carrier in foreign air transportation under section 40115 of Title 49 of the United States Code.

### **Interim Allocations**

It is clear that we will not have issued a final decision in this case before the beginning of the charter year on July 1. Therefore, based on the decision discussed above, we will award a portion of the flights to each of the applicants to which we propose to issue an allocation and reserve a proportional number of flights in the charter pool for distribution to other carriers to accommodate carrier operations for the month of July. We believe it is in the public interest to ensure that shippers and carriers continue to be able to operate programs while we complete this proceeding.

### **ACCORDINGLY,**

1. We tentatively allocate 450 U.S.-Brazil all-cargo round-trip charters for the period July 1, 1996, through June 30, 1997, as follows:

Millon Air, Inc.	99
Southern Air Transport, Inc.	76
Tower Air, Inc.	60
Arrow Air, Inc.	55
Florida West Airlines, Inc.	53
Fine Airlines, Inc.	23
Charter Pool	84
Total	450

2. We tentatively conclude that the carrier allocations in paragraph 1 should be subject to the following condition:

Where fewer than 40 percent of a carrier's allocated charters have been used or been committed for use by firm contracts during the six-month period ending December 31, the remaining charter allocations exceeding the number equal to the number of those already operated or committed in the preceding six months would be forfeited and placed in the charter pool;

3. We tentatively establish a charter pool subject to the following conditions:

(a) Distributions would be made to eligible applicants on a first-come, first-served basis with operations under such distributions limited to four per applicant per month;<sup>20</sup>

(b) Carriers holding scheduled combination or all-cargo authority in the U.S.-Brazil market would not be eligible applicants until after April 30, 1997;

(c) Except as conditioned by (b), above, carriers receiving allocations in this proceeding would not be eligible applicants until after September 30, 1996;

(d) Applications to operate charters may be filed no earlier than 30 days in advance of the flight date;

(e) Applications must identify (i) the number of flights requested, (ii) proposed flight dates including a four-day service window; (iii) the charterer(s), (iv) the city-pair markets involved by direction, (v) the type of aircraft to be used, and (vi) the type of cargo to be transported. After April 30, 1997, a copy of the charter contract would also be required.

4. We tentatively propose to require that each carrier allocated charters in this proceeding inform the U.S. Air Carrier Licensing Division (X-44), Office of International Aviation, by letter no later than January 3, 1997, of the number of charters it has operated or has committed by firm contracts: For charters under contract, carriers shall indicate the charterer(s), dates, city-pair markets, and nature of traffic and must submit evidence of signed contracts for those charters;

5. We tentatively propose to require each carrier allocated flights or receiving flights from the charter pool to notify the U.S. Air Carrier Licensing Division (X-44), Office of International Aviation, no later than the tenth day of each month (or until its charters are exhausted, whichever occurs earlier) of: (1) the number of Brazil all-cargo charters operated during the preceding month; (2) the city-pairs served by direction; (3) the date of each flight; (4) the charterer(s); (5) the type of aircraft used; (6) the type of cargo carried; and (7) the number of charters for which Brazilian authority was obtained for that month which subsequently were canceled or rescheduled.<sup>21</sup> Carriers allocated charters shall notify the Department and the Government of Brazil whether or not any charters have been operated by the carrier during the month.<sup>22</sup> After April 30, 1997, each carrier allocated flights from the charter pool would be required to report such operations no later than seven days after operation of each flight obtained from the charter pool.

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<sup>20</sup> Carriers must submit evidence of contract for any allocation from the charter pool and must specify the dates of the proposed flights.

<sup>21</sup> Reports on flights operated from the charter pool under a Notice of Consistency should also identify the date of the Notice granting the flights. A statement should be included as well verifying that the Government of Brazil has been notified in writing for changes and/or cancellations of flights.

<sup>22</sup> Carriers are advised that they must follow the Brazilian Government's procedures for notification of change or cancellation or be subject to forfeiture of those frequencies by the Brazilian Government.

6. We tentatively delegate to the Director, Office of International Aviation, the authority to administer distribution of flights from the charter pool proposed in this order and, where deemed in the public interest, to waive the restrictions on the charter pool;
7. We allocate charters from the tentative allocations described in paragraph 1 for the month of July as follows:
- |               |   |
|---------------|---|
| Millon:       | 8 |
| SAT:          | 6 |
| Tower:        | 5 |
| Arrow:        | 5 |
| FWIA:         | 4 |
| Fine:         | 2 |
| Charter Pool: | 7 |

All allocations and charter pool distributions will be subject to the conditions proposed in ordering paragraphs 2-6;

8. We direct Tower Air, Inc. and Florida West International Airlines to notify the Department within seven calendar days of the date of service of this order whether they will accept an allocation of fewer than the number of flights requested in their initial applications;
9. We direct all interested parties objecting to the tentative decisions described in this order to file an original and 5 copies of their objections with the Department's Documentary Services Division, Docket OST-96-1242, U.S. Department of Transportation, 400 Seventh Street, S.W., Room PL-401, Washington, D.C., 20590, no later than seven calendar days from the date of service of this order; answers to such objections shall be filed no later than three calendar days thereafter;<sup>23</sup>
10. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action;<sup>24</sup>
11. In the event that no objections are filed, we will deem all further procedural steps to be waived and we will enter an order finalizing our tentative allocations and procedures;
12. We grant the motion of Florida West International Airlines, Inc. for leave to file an otherwise unauthorized document;
13. We grant the motions of American International Airways, Inc.; Polar Air Cargo, Inc.; and Southern Air Transport, Inc. for confidential treatment under Rule 39 of charter contract documents filed in Docket OST-96-1242; and

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<sup>23</sup> All pleadings should be unbound without tabs on 8½ by 11 inch white paper with dark ink.

<sup>24</sup> As we are providing for answers to this tentative decision, we will not entertain petitions for reconsideration of our tentative procedures/allocations in this order.

14. We will serve a copy of this order on the carriers listed in the appendix to this order; the Ambassador of Brazil in Washington, D.C., and the U.S. Department of State (Office of Aviation Negotiations).

By:

PATRICK V. MURPHY  
Deputy Assistant Secretary for  
Aviation and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web at  
<http://www.dot.gov/dotinfo/general/orders/aviation.html>.*

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